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EXAMINER

JONES, HEATHER RAE

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2621

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/602,343	Applicant(s) KASHIWA, KOTARO	
	Examiner HEATHER R. JONES	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 15-45, 58-72, 74, 75, 77 and 78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 15-45, 58-72, 74, 75, 77 and 78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 and 25 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 6, 2010 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-7, 15-45, 58-72, 74, 75, 77, and 78 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 74, 75, 77 and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 74, 75, 77 and 78 recite the limitation "the time period" in each one of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-21 and 58-69 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 15-21 and 58-69 define a computer-readable medium embodying functional descriptive material. However, the claim does not define a non-transitory computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed computer-readable medium can range from paper on which the program is written, to a program simply contemplated and memorized by a person. In the state of the art, transitory signals are commonplace as a medium for transmitting computer instruction and thus, in the absence of any evidence to the contrary and give the broadest reasonable interpretation; the scope of a "computer-readable medium" covers a signal per se. In order to overcome the 101, the "computer-readable medium" should be changed to "non-transitory computer-readable medium".

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7, 15-45, and 58-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seki et al. (U.S. Patent 7,154,534) in view of Foreman et al. (U.S. Patent Application Publication 2001/0040592) in view of Kimura et al. (U.S. Patent 5,889,916).

Regarding claim 1, Seki et al. discloses a content project creating method comprising the steps of: selecting a template from a plurality of templates, each template containing a setting of a scene arrangement of a plurality of scenes of content (Figs. 37 and 89; col. 29, lines 40-51; col. 31, lines 17-32); producing scene setting data for a scene included in the template selected in the selecting step by setting details of the scene using existing material data or newly created data (col. 30, lines 29-40); and outputting content project data constructed by managing the edited scene setting data on the basis of the scene arrangement set in the template (col. 30, line 65 – col. 31, line 5). However, Seki et al. fails to disclose providing for recording video image data for each of a plurality of takes of a particular scene; displaying for selection in the video display of an image data recorder a piece of the video image data corresponding to each of the plurality of takes of the particular scene; selecting one of the displayed plurality of

Art Unit: 2621

takes for the particular scene; and subsequently editing the scene setting data; wherein the template is a scene arrangement sequence for the plurality of scenes set in advance for a story structure of the video content and prior to editing, and wherein the template includes a timeline set prior to editing for each scene and audio setting based on the timeline.

Referring to the Foreman et al. reference, Foreman et al. discloses a content project creating method comprising providing templates; enabling the editing of the selected template to alter the number of scenes in the template (Fig. 5; paragraphs [0044]-[0046] – adding and deleting scenes from the storyboard (template)); and subsequently editing the scene setting data; wherein the template is a scene arrangement sequence for the plurality of scenes set in advance for a story structure of the video content and prior to editing, and wherein the template includes a timeline set prior to editing for each scene and audio setting based on the timeline (Fig. 5; paragraph [0040]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided templates depicting scene arrangement sequences for the plurality of scenes set in advance for a story structure of the video content as disclosed by Foreman et al. with the templates disclosed by Seki et al. in order create personalized video presentations that tell a story and to allow the user filming the story to have a clear idea of what to shoot, how to shoot, and for how long. However, Seki et al. in view of Foreman et al. still fail to explicitly disclose providing for recording video image data for

each of a plurality of takes of a particular scene; displaying for selection in the video display of an image data recorder a piece of the video image data corresponding to each of the plurality of takes of the particular scene; and selecting one of the displayed plurality of takes for the particular scene.

Referring to the Kimura et al. reference, Kimura et al. discloses a content recording project creating method comprising providing for recording video image data for each of a plurality of takes of a particular scene; displaying for selection in the video display of an image data recorder a piece of the video image data corresponding to each of the plurality of takes of the particular scene; and selecting one of the displayed plurality of takes for the particular scene (col. 1, line 63-col. 2, line 2; col. 10, lines 4-9, 40-47, and 60-65; col. 11, lines 26-38; col. 11, line 59-col. 12, line 21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided several takes for a particular scene and allowing the user to select the most appropriate one as disclosed by Kimura et al. in the method disclosed by Seki in view of Foreman et al. in order to allow the user to obtain the feel, look, emotion, timing, attitude, or other characteristic they are going for in that particular scene.

Regarding claim **2**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1, as well as the method further comprising the step of setting details of audio in accordance with the scene arrangement set in the template or in association with

each of the scenes (Foreman et al.: Figs. 5 and 12; paragraphs [0040] and [0066]).

Regarding claim **3**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1 as well as the method further comprising the step of setting details of image processing in accordance with the scene arrangement set in the template or in association with each of the scenes (Seki et al.: Figs. 37 and 89; col. 29, lines 40-51; col. 31, lines 17-32).

Regarding claim **4**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1, including the step of changing the scene arrangement set in the template (Foreman et al.: Figs. 5 and 9; paragraphs [0040] , [0057], and [0058]).

Regarding claim **5**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1 including that in the content project data outputting step, the content project data is read (Seki et al.: col. 30, line 65 – col. 31, line 5).

Regarding claim **6**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1, including that in the content project data is recorded on a recording medium (Foreman et al.: Fig. 2; paragraph [0036]).

Regarding claim **7**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1

including that the content project data outputting step, the content project data is transmitted (Seki et al: col. 30, lines 65-67).

Regarding claims **15-21**, these are program recording medium claims corresponding to the method claims 1-7. Therefore claims 15-21 are analyzed and rejected as previously discussed with respect to claims 1-7. Furthermore, the computer disclosed by Seki et al. has a CPU that would store the program.

Regarding claim **22**, Seki et al. discloses an imaging apparatus comprising: imaging means (102) for capturing an image and generating a video image signal; processing means (115) for processing the video image signal; obtaining means (109) for obtaining content project data in form of a template selected from a plurality of templates, each template including scene setting data for each scene included in a scene arrangement of a plurality of scenes of content; display control means for displaying details of the content project data on a display device (104); and imaging control means (112) for controlling selection of a scene of the content project data, the capturing of the image by the imaging means, and the processing of the video image signal by the processing means (col. 11, line 45 – col. 13, line 61). However, Seki et al. fails to disclose recording means for recording video image data for each of a plurality of takes of a particular scene; displaying means for displaying the plurality of takes in the video display of the imaging means a piece of the video image data corresponding to each of the particular scene; selecting means for selecting one of the displayed plurality of takes for the particular scene; and subsequently

editing the scene setting data; wherein the template is a scene arrangement sequence for the plurality of scenes set in advance for a story structure of the video content and prior to editing, and wherein the template includes a timeline set prior to editing for each scene and audio setting based on the timeline.

Referring to the Foreman et al. reference, Foreman et al. discloses a content project creating method comprising providing templates; template editing means for editing of the selected template to alter the number of scenes in the template (Fig. 5; paragraphs [0044]-[0046] – adding and deleting scenes from the storyboard (template)); and subsequently editing the scene setting data; wherein the template is a scene arrangement sequence for the plurality of scenes set in advance for a story structure of the video content and prior to editing, and wherein the template includes a timeline set prior to editing for each scene and audio setting based on the timeline (Fig. 5; paragraph [0040]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided templates depicting scene arrangement sequences for the plurality of scenes set in advance for a story structure of the video content as disclosed by Foreman et al. with the templates disclosed by Seki et al. in order create personalized video presentations that tell a story and to allow the user filming the story to have a clear idea of what to shoot, how to shoot, and for how long. However, Seki et al. in view of Foreman et al. still fail to disclose recording means for recording video image data for each of a plurality of takes of a particular scene; displaying means for displaying the

plurality of takes of the particular scene; and selecting means for selecting one of the displayed plurality of takes in the video display of the imaging means a piece of the video image data corresponding to each of the particular scene.

Referring to the Kimura et al. reference, Kimura et al. discloses a content recording project creating method comprising recording means for recording video image data for each of a plurality of takes of a particular scene; displaying means for displaying the plurality of takes in the video display of the imaging means a piece of the video image data corresponding to each of the particular scene; and selecting means for selecting one of the displayed plurality of takes for the particular scene (Fig. 3;—col. 1, lines 42-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided several takes for a particular scene and allowing the user to select the most appropriate one as disclosed by Kimura et al. in the method disclosed by Seki in view of Foreman et al. in order to allow the user to obtain the feel, look, emotion, timing, attitude, or other characteristic they are going for in that particular scene.

Regarding claim **23**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 including that the processing means records the video image signal on a recording medium, and the imaging apparatus further comprises: management information updating means for updating management information for the content project data so that the video image signal captured by the imaging means and

recorded on the recording medium by the processing means while the scene of the content project data is selected is allocated to the scene arrangement of the content project data (Seki et al.: Fig. 35).

Regarding claim **24**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 as well as the apparatus further comprising communication means for communicating with an outside, wherein the processing means transmits the video image signal from the communication means, and wherein the imaging control means transmits, upon transmission, from the communication means, of the video image signal captured by the imaging means while the scene of the content project data is selected, information on the selected scene (Seki et al.: col. 12, lines 53-55).

Regarding claim **25**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claims 22 and 23, including that the obtaining means obtains the content project data recorded on the recording medium placed on the processing means (Foreman et al.: Fig. 2; paragraph [0036]).

Regarding claim **26**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 including that the obtaining means obtains the content project data recorded on a recording medium differing from the recording medium placed on the processing means (Seki et al.: col. 12, lines 51-60).

Regarding claim **27**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 as well as the apparatus further comprising communication means for communicating with an outside, wherein the obtaining means obtains the content project data received by the communication means (Seki et al.: col. 12, lines 53-55).

Regarding claim **28**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 including that the display control means displays the scene setting data associated with the selected scene on the display device, the displayed scene setting data serving as the details of the content project data (Seki et al.: Figs. 37 and 89; col. 29, lines 40-51; col. 31, lines 17-32).

Regarding claim **29**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22 including that upon capturing the image by the imaging means while the scene of the content project data is selected, the display control means displays, on the display device, the scene setting data associated with the selected scene and the video image signal generated by the imaging means (Seki et al.: Fig. 29).

Regarding claim **30**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claims 22 and 23 including that the display control means displays, on the display device, a video image that includes the video image signal allocated by the

Art Unit: 2621

management information updating means to the scene arrangement of the content project data and that is based on the content project data (Seki et al.: Fig. 29).

Regarding claim **31**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claims 22 and 23 including that the imaging control means sets the execution time for the imaging means to capture the image and for the processing means to record the video image signal on the recording medium while the scene of the content project data is selected on the basis of scene time information included in the content project data (Seki et al.: Figs. 37 and 89; col. 29, lines 40-51; col. 31, lines 17-32).

Regarding claim **32**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claims 22 and 24 including that the imaging control means sets the execution time for the imaging means to capture the image and for the processing means to record the video image signal on the recording medium while the scene of the content project data is selected on the basis of scene time information included in the content project data (Seki et al.: Figs. 37 and 89; col. 29, lines 40-51; col. 31, lines 17-32).

Regarding claim **33**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claims 22 and 23 as well as the apparatus further comprising editing means for editing

the video image signal captured by the imaging means and recorded on the recording medium by the processing means while the scene of the content project data is selected (Seki et al.: col. 30, lines 49-57).

Regarding claims **34-45**, these are method claims corresponding to the apparatus claims 22-33. Therefore, claims 34-45 are analyzed and rejected as previously discussed with respect to claims 22-33.

Regarding claims **58-69**, these are program recording medium claims corresponding to the apparatus claims 22-33. Therefore claims 58-69 are analyzed and rejected as previously discussed with respect to claims 22-33. Furthermore, the computer disclosed by Seki et al. has a CPU that would store the program.

Regarding claims **70-72**, these are system claims comprising claims 1 and 22-24. Therefore, claims 70-72 are analyzed and rejected as previously discussed with respect to claims 1 and 22-24.

9. Claims 74, 75, 77, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seki et al. in view of Foreman et al. in view of Kimura et al. as applied to claims 1 and 22 above, and further in view of Miyazaki et al. (U.S. Patent 6,546,187).

Regarding claim **74**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 1, but fails to disclose that the time period is slightly longer than the time period based on the timeline.

Referring to the Miyazaki et al. reference, Miyazaki et al. discloses automatically terminates recording video image data for a particular one of the plurality of video takes after a time period based on the timeline set in the template for the scene (Fig. 17), wherein the time period is slightly longer than the time period based on the timeline (Miyazaki et al.: Fig. 17 – any preset time can be allotted, going slightly over the time period is purely a design choice that would ensure getting the full amount of video for the allotted time).

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to have preset a time limit on the recording of the video images as disclose by Miyazaki et al. in the method disclosed by Seki et al. in view of Foreman in view of Kimura et al. in order to correspond the recording of the scenes to the time allotted on the storyboard for that particular scene, thereby alleviating the extra editing required to scale back an excess amount of time of the recording.

Regarding claim **75**, Seki et al. in view of Foreman et al. in view of Kimura et al. in view of Miyazaki et al. discloses all the limitations as previously discussed with respect to claims 1 and 74, including that the time period is approximately 10 seconds longer than the time period based on the timeline (Miyazaki et al.: Fig. 17 – any preset time can be allotted, going slightly over the time period is purely a design choice that would ensure getting the full amount of video for the allotted time).

Regarding claim **77**, Seki et al. in view of Foreman et al. in view of Kimura et al. discloses all the limitations as previously discussed with respect to claim 22, but fails to disclose that the time period is slightly longer than the time period based on the timeline.

Referring to the Miyazaki et al. reference, Miyazaki et al. discloses automatically terminates recording video image data for a particular one of the plurality of video takes after a time period based on the timeline set in the template for the scene (Fig. 17), wherein the time period is slightly longer than the time period based on the timeline (Miyazaki et al.: Fig. 17 – any preset time can be allotted, going slightly over the time period is purely a design choice that would ensure getting the full amount of video for the allotted time).

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to have preset a time limit on the recording of the video images as disclose by Miyazaki et al. in the method disclosed by Seki et al. in view of Foreman in view of Kimura et al. in order to correspond the recording of the scenes to the time allotted on the storyboard for that particular scene, thereby alleviating the extra editing required to scale back an excess amount of time of the recording.

Regarding claim **78**, Seki et al. in view of Foreman et al. in view of Kimura et al. in view of Miyazaki et al. discloses all the limitations as previously discussed with respect to claims 22 and 77, including that the time period is approximately 10 seconds longer than the time period based on the timeline

(Miyazaki et al.: Fig. 17 – any preset time can be allotted, going slightly over the time period is purely a design choice that would ensure getting the full amount of video for the allotted time).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER R. JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Heather R Jones

Application/Control Number: 10/602,343
Art Unit: 2621

Page 18

Examiner
Art Unit 2621

HRJ
March 15, 2010

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621